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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,938	07/11/2005	Hendricus Antonius Hoogland	294-216 PCT/US	9592

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HOFFMANN & BARON, LLP  
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EXAMINER
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MALEKZADEH, SEYED MASOUD

ART UNIT	PAPER NUMBER
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1791

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07/10/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/533,938	<b>Applicant(s)</b> HOOGLAND, HENDRICUS ANTONIUS	
	<b>Examiner</b> SEYED M. MALEKZADEH	<b>Art Unit</b> 1791	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

Claims 1-13 are pending.

Claims 14-19 are cancelled.

In view of the amendment, filed on 03/31/2008, following rejections are withdrawn from the previous office action, mailed on 10/31/2008, for the reason of record.

- Objection of claim 1
- Rejection of claims 1-13 under 35 U.S.C. 102(b) as being anticipated by Nakamura et al (JP 06-182835)

### **New Grounds of Rejection**

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-6 and 10-12 are rejected under 35 U.S.C 102(b) as being anticipated by Lovejoy et al (US 3,905,740)**

Lovejoy et al ('740) teach an injection mold for making a polygonal plastic article having a closed bottom and an open top comprising a first mold section (50) as a first mold part fixedly secured to the stationary platen (34) and having a mold defining surface corresponding to the exterior dimensions of typical molded plastic article made, and a second mold section (60) as a second mold part which is fixedly secured to the movable platen (32) and is disposed in opposed facing relation to the first mold section (50). (See lines 31-36, column 3 and lines 61-67, column 3)

Furthermore, the prior art teaches the mold (30) includes a sidewall mold means comprising four separable sidewall members (80, 82, 84, and 86). The sidewall members (80, 82, 84, and 86) are interposed between the first and second mold sections (50 and 60) and in the closed position of the mold (30) correspond with the first mold section (50) to define the exterior sidewall contour of the molded article (10). (See lines 36-51, column 4) Furthermore, the sidewall members are each supported and guided by respective pairs of guide rods (90, 92, 94, and 96) of a guide means structure in which each pair of guide rods are provided for each of the side wall members. (See lines 63-68, column 4 and lines 1-5, column 5)

Moreover, Lovejoy et al ('740) teach the four sidewall members (80, 82, 84 and 86) are each formed as rectangular blocks and inter-fit in an overlapping relation. The sidewall elements in their closed position, collectively define the exterior sidewalls in the face contour of the mold cavity. (See lines 32-39,

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column 6 and figure 5) Also as shown, in an open position of the apparatus, the wall parts, together, provide a space volume which is greater than the volume of the wall parts in the closed position. (See figure 6 and lines 38-45, column 7)

Therefore, as to claim 1, Lovejoy et al ('740) disclose a mold apparatus comprising two mold parts (50 and 60), movable relative to each other in a first direction of movement; also the mold apparatus include a mold cavity in which the mold cavity being provided on both mold parts (50 and 60), and also four slide-able rigid wall parts movable in a second direction movement which are moveable between a first retracted position and a second expanded position while the mold cavity with the wall parts in the second position are in a product forming position and wall parts in the first position have a volume greater than with the wall parts in the second position while the first and the second direction of movement mutually include an angle.

Furthermore, as to claims 2-3 and 5, Lovejoy et al ('740) teach a first direction of movement in which the two mold parts (50 and 60) move toward and away from each other and a second direction of movement in which the slide-able walls (80, 82, 84, and 86) extend or retract from each other wherein the first and the second directions of movement include an angle of 90 and therefore, the first and the second direction of movement provide a right angle.

Moreover, Lovejoy et al ('740) teach the movement of the sidewall members between in an extended or retracted positions are effected by means

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of mechanical linkages coupled between the respective sidewall elements. The linkage elements (102) and (104) each have one end pivotally connected to the ejection plate (100) and their opposite ends pivotally connected to the sidewall members (80) and (82), respectively. (See lines 18-25, column 5) furthermore, the prior art teaches the sidewall members (84 and 86) are pivotally connected by respective linkages (110 and 112) to the ejection plate (100) in the same manner as the sidewall members (80 and 82). (See lines 48-53, column 5)

Therefore, as to claim 4, Lovejoy et al ('740) disclose four separate and independently moveable wall parts, which are provided in the mold cavity, move independently of each other by linkages (110 and 112).

Furthermore, the prior art teaches a core section (70) in which cooperates with the cavity of molding section (50) and the slide-able walls (80, 82, 84, and 86) to form the mold cavity. (See lines 16-22, column 4) therefore, as to claim 6, prior art teaches a core part of the mold cavity is surrounded from four sides by four movable wall parts.

Moreover, as to claim 10, Lovejoy et al ('740) teach the cavity in the mold part (50) include a bottom wall part having three inlet gates (46-48) as injection openings. (See lines 21-26, column 3)

Furthermore, Lovejoy et al ('740) disclose control mechanism for actuation of the movable core elements and sidewall mold components is a hydraulic cylinder (106) which is positioned rearwardly of the second mold section (60). Further, to accommodate the movement of this control

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mechanism, a spacer structure is provided between the platen (32) and the backside of the second mold means (60). (See lines 23-30, column 4 and lines 32-47, column 5) Therefore, as to claim 11, the prior art teaches drive means are provided for each movable wall part.

Also, as to claim 12, the prior art teaches a horizontal hydraulic molding (31) as a pressing device wherein the first direction of movement is parallel to the pressing direction of the pressing device. (See lines 43-61, column 2)

The prior art, thus, meets all the claim limitations, and therefore, Lovejoy et al ('740) anticipates claims 1-6 and 10-12.

**Claims 1-9 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by McDonald (US 3,433,299).**

McDonald ('299) teaches a die machine as a mold apparatus comprising a front fixed platen (14) and a cover die holding block (20), all together, as a first mold part including a stationary die (21) as a central core, a movable platen (16), an ejector die holding block (22), and an ejector die (40), all together, as a second mold part including two core members (50) as second core parts which are disposed at a distance from the central core (21); furthermore, the apparatus comprises moveable wall parts (42, 44, 46, and 48) wherein a first direction of movement is defined as the direction that the moveable platen (16) moves towards and away from the fixed platen (14), and a second direction of the movement is defined as the direction in which the moveable wall parts (42, 44, 46, and 48) move towards and away from each

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other; wherein, the second direction of movement is perpendicular to the first direction of movement. (See lines 41-64, column 2 and lines 1-10, column 3; figures 2-3) therefore, the first and second direction of movement include an angle of 90° which is a right angle.

McDonald ('299) also teaches the wall parts (42, 44, 46, and 48) are movable toward the central core part (21) in a second direction of movement between a first retracted position and a second extended position. Furthermore, the central core part (21), the second core parts (50), and the movable wall parts (42, 44, 46, and 48) define a mold cavity, and the second core parts (50) are disposed between the central core part (21) and the movable wall parts (42, 44, 46, and 48) in such a way that the movable parts (42, 44, 46, and 48) are located at the side directions of the second core parts (50) facing away from the central core part (21); furthermore, the movement of the wall parts (42, 44, 46, and 48) are directed toward the second core parts (50) and the molten material is pushed by the wall parts against the first centered core part (21) and the second core parts (50). Furthermore, the moveable wall parts (42, 44, 46, and 48) of the mold are arranged for forming longitudinal walls of the cavity, and in an open position of the apparatus, the wall parts, together, provide a space volume which is greater than the volume of the wall parts in the closed position. (See lines 43-75, column 3 and lines 37-75, column 4; figures 2-3).



Furthermore, McDonald ('299) discloses a plurality of hydraulic cylinder means (56) as drive means which each include piston rods (66) connected to the wall parts (42, 44, 46, and 48) to extend or retract the wall parts (42, 44, 46, and 48) from the mold cavity. (See lines 51-57, column 4) Therefore, McDonald ('299) teaches a plurality of separate and independently moveable wall parts to correspond with other mold members to form a mold cavity.

Moreover, McDonald ('299) teaches the movable platen (16) uses the moving force transmitted by the hydraulic cylinder (28) as a pressing device through the toggle linkage (32), (See lines 43-53, column 3) wherein the first direction of movement is parallel to the pressing direction of the pressing device, and each movable wall part and each of the drive means (56) move independently of the pressing device. (See figures 1 and 3)

With regard to the recitations in claims 7 and 8, claims recite the intended use of a mold apparatus. The citations such as in claim 7, lines 18-21, "during use plastic can move from a space between the central core part and the second core part along the second core part between the second core part and the respective wall part and can be pushed by the respective wall part against the second core part", and the recitations in claim 8, lines 2-7, "for forming a holder with a bottom surface and a longitudinal wall extending away from the bottom surface, the bottom surface and/or the longitudinal wall having a thickness which is small relative to the height of the longitudinal wall, measured at right angles to the bottom surface, while the height of the

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longitudinal wall is relatively great relative to the dimensions of the bottom surface, more I particular at least one quarter of a diagonal or central line of said bottom surface."

Intended use has been continuously held not to be germane to determining the patentability of the apparatus, *In re Finsterwalder*, 168 USPQ 530.

The manner or method in which a machine is to be utilized is not germane to the issue of patentability of the machine itself, *In re Casey*, 152 USPQ 235,238.

Purpose to which apparatus is to be put and expression relating apparatus to contents thereof during intended operation are not significant in determining patentability of an apparatus claim, *Ex parte Thibault*, 164 USPQ 666.

A recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations, *EX parte Masham*, 2 USPQ2d 1647.

The prior art, thus, meets all the claim limitations, and therefore, McDonald ('299) anticipates claims 1-9 and 11-13.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new grounds of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seyed Masoud Malekzadeh whose

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telephone number is 571-272-6215. The examiner can normally be reached on Monday – Friday at 8:30 am – 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin, can be reached on (571) 272-1189. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published application may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. M. M./

Examiner, Art Unit 1791

/Philip C Tucker/

Supervisory Patent Examiner, Art Unit 1791